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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Louisiana state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

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Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

Even though Aimee may have inadvertently endangered her sister, she has not violated any laws, because Louisiana law specifically states that "[t]hose who have not reached the age of ten years are exempt from criminal responsibility." La. Rev. Stat. Ann. § 14:13 (West 1994). Depending on the circumstances, however, her parents may be guilty of cruelty to juveniles, which is "the intentional or criminally negligent mistreatment or neglect, by anyone over the age of seventeen, of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child." La. Rev. Stat. Ann. § 14:93(A) (West 1994). The penalty for cruelty to juveniles is a fine of not more than $1,000, imprisonment with or without hard labor for not more than 10 years, or both. La. Rev. Stat. Ann. § 14:93(D) (West 1994). "Neglect" is defined as "the refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health is substantially threatened or impaired." La. Chil. Code art. 603(14) (West 1994). Under the Louisiana Children's Code article 793, the parents may be adjudicated in need of supervision if a child under the parents' control is found in need of care. La. Chil. Code art. 793(A)(1) (West 1994). They may even lose custody of the children; if a child is found in need of care or immediate medical attention, that child may be taken into protective custody with or without a court order. La. Chil. Code art. 25(3), art. 1433(A) (West 1994).

2. **Does Louisiana statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

Tyrell may not drink the wine even with his parents' permission. La. Rev. Stat. Ann. § 14:91.1(B)(1) (West 1994) states: "It is unlawful for any person seventeen years of age to possess any alcoholic beverage either of high or low alcoholic content." Violation of this section carries a fine of not more than $50. La. Rev. Stat. Ann. § 14:91.1(B)(2) (West 1994). Louisiana law also prohibits the purchase or possession of alcoholic beverages by those under the age of seventeen; younger violators will be remanded to the juvenile courts for disposition. La. Rev. Stat. Ann. § 14:91.2(A), (B) (West 1994).

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

Whether Maria's actions constitute a crime depends largely on the extent of her involvement with the actual seller of the marijuana. If Maria is merely telling her friends the identity of someone she thinks sells marijuana, she is probably not violating any statute. If she is acting with intent to facilitate a drug sale, she is guilty of criminal conspiracy, "the agreement or combination of two or more persons for the specific purpose of committing a crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the

agreement or combination." La. Rev. Stat. Ann. § 14:26 (West 1994). Directing her friends to a drug dealer with whom she is working would be an act of conspiracy. Conspiracy to violate any section of the Louisiana Uniform Controlled Dangerous Substances Law is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy. La. Rev. Stat. Ann. § 40:979(A) (West 1994). In addition, Maria may be considered to have constructive possession of the drugs and could be charged with possession with intent to distribute or simple possession, even though she does not actually have the drugs in her physical possession. La. Rev. Stat. Ann. § 40:966(A)(1), (C) (West 1994). A first conviction for simple possession of marijuana carries a penalty of a fine of not more than $500, six months' imprisonment in the parish jail, or both; for a second conviction, the penalty increases to a fine of not more than $2,000, not more than five years' imprisonment with or without hard labor, or both. La. Rev. Stat. Ann. § 40:966(D)(1), (2) (West 1994). Possession with intent to distribute carries a penalty of a fine up to $50,000 and imprisonment for not less than five years nor more than 30 years. La. Rev. Stat. Ann. § 40:966(B)(2) (West 1994).

If Maria is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

Depending on the circumstances of the fight, the twins could face homicide charges up to second-degree murder. La. Rev. Stat. Ann. § 14:30.1(A)(1) (West 1994) defines second-degree murder as "the killing of a human being [w]hen the offender has a specific intent to kill or to inflict great bodily harm. . . ." If Adam and Alex *intended* to seriously injure Joe, the charge could be second-degree murder, even if his death was accidental. Second-degree murder is punishable by life imprisonment at hard labor without benefit of parole, probation or suspension of sentence. La. Rev. Stat. Ann. § 14:30.1(B) (West 1994).

Lesser homicide charges are possible. If Joe provoked the fight so that the twins acted "in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control and cool reflection," the charge may be reduced to manslaughter; manslaughter is punishable by imprisonment at hard labor for not more than 40 years. La. Rev. Stat. Ann. § 14:31 (West 1994). Another possible lesser charge is negligent homicide, "the killing of a human being by criminal negligence"; the penalty for negligent homicide is imprisonment with or without hard labor for not more than five years, a fine of not more than $5,000, or both. La. Rev. Stat. Ann. § 14:32(A), (C) (West 1994). "Criminal negligence exists when, although neither specific nor general criminal intent is present, there is such disregard of the interest of others that the offender's conduct amounts to a gross deviation below the standard of care

expected to be maintained by a reasonably careful man under like circumstances." La. Rev. Stat. Ann. § 14:12 (West 1994).

If any charges are brought against the twins, the fact that they were intoxicated at the time of the fight does not provide any defense. La. Rev. Stat. Ann. § 14:15 (West 1994).

Under certain circumstances, Joe's death may be considered justifiable homicide, even if the killing was intentional. "A homicide is justifiable when committed in self-defense by one who reasonably believes that he is imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger." La. Rev. Stat. Ann. § 14:20(1) (West 1994). If one of the twins acted in defense of the other, he may still claim the right of defense. La. Rev. Stat. Ann. § 14:22 (West 1994). However, if either of them started the fight, they may not claim justifiable homicide because "[a] person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense" unless he has clearly quit the conflict. La. Rev. Stat. Ann. § 14:21 (West 1994).

It is possible that the driver of the car which struck Joe may bear some responsibility under La. Rev. Stat. Ann. § 32:214 (West 1994), which provides that "every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian. . . and shall exercise proper caution upon observing any child or any confused or incapacitated person upon a highway."

5. **Has Jose violated any State law even though he is not drinking? Has Carlos or TJ violated any State law?**

If Jose's friends are drinking in bars or in private homes and he is acting as the "designated driver" as they travel from place to place, he is not breaking any law. But if his friends are drinking in the car, Jose may be considered to be in possession of the alcohol, even though he is not drinking. He would thus be violating La. Rev. Stat. Ann. § 14:91.1(B)(1) (West 1994), which prohibits possession by a seventeen-year-old of "any alcoholic beverage either of high or low alcoholic content." The penalty for this violation is a fine of not more than $50. La. Rev. Stat. Ann. § 14:91.1(B)(2) (West 1994).

At age 18, TJ may not legally purchase or have public possession of any alcoholic beverage, so unless the friends are drinking in private residences, clubs or establishments TJ is breaking the law. La. Rev. Stat. Ann. § 14:91.5 (West 1994). The penalty for this violation is a fine of not more than $50. La. Rev. Stat. Ann. § 14:91.5(B)(1) (West 1994).

If Carlos' young friend Jose, a minor, is breaking the law and Carlos has provided the alcohol, he may be guilty of encouraging or contributing to child delinquency, which carries a fine of not more than $1,000, imprisonment of up to six months, or both. La. Rev. Stat. Ann. § 14:92.1(A)(1) (West 1994).

6. **Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?**

Dr. Melrose is violating not only state but federal law. By prescribing a dangerous controlled substance without verifying medical need, Dr. Melrose is violating La. Rev. Stat. Ann. § 40:971 (West 1994), which states: "It shall be unlawful for any person, including a physician, . . . to prescribe, dispense, or administer legally controlled substances . . . for a purpose other than accepted medical treatment of a disease, condition, or illness." The penalty is based on the type of substance which is the subject of the violation. In addition to facing criminal charges, Dr. Melrose may lose his medical license under La. Rev. Stat. Ann. § 37:1285(A)(6) (West 1994), which provides for the revocation of a physician's medical licenses for "prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor. . . ." Dr. Melrose faces federal charges under U.S. law 21 U.S.C.A. § 829 (West 1993), which provides that a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985).

Dr. Melrose's patients, if they do not give him a bona fide reason for needing the painkillers or lie about their need, may also be breaking the law. La. Rev. Stat. Ann. § 40:971(B)(1)(b) (West 1994) prohibits knowingly or intentionally obtaining possession of a controlled dangerous substance by "misrepresentation, fraud, forgery, deception, or subterfuge." The penalty for this violation is imprisonment, with or without hard labor, for not more than five years and a fine of up to $5,000. La. Rev. Stat. Ann. § 40:971(B)(2) (West 1994). Federal law 21 U.S.C.A. § 843 (West 1993) also prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. First, she is stealing; "[t]heft is the misappropriating or taking of anything of value which belongs to another, either without the consent of the other. . . or by means of fraudulent conduct, practices, or representations." La. Rev. Stat. Ann. § 14:67(A) (West 1994). The penalty for theft is based on the value of what is stolen. For theft amounting to more than $500, the penalty is imprisonment, with or without hard labor, for not more than 10 years, a fine of not more than $3,000, or both; for theft amounting to less than $500 but more than $100, imprisonment, with or without hard labor, for not more than two years, a fine of not more than $2,000, or both; for theft amounting to less than $100, imprisonment for not more than six months, a fine of not more than $500, or both. La. Rev. Stat. Ann. § 14:67(B)(1), (2), (3) (West 1994). When the offender has committed multiple acts of theft, the aggregation of the amounts taken shall determine the grade of the offense. La. Rev. Stat. Ann. § 14:67(C) (West 1994).

Danielle's employer may be liable for the damage caused by her actions under La. Civ. Code Ann. art. 2320 (West 1994). "[R]esponsibility only attaches, when the . . . employers . . . might have prevented the act which caused the damage, and have not done it."

More seriously, Danielle is violating state and federal drug control statutes. Depending on the type of drug she is stealing, Danielle is violating some section of Louisiana's Uniform Controlled Dangerous Substances Law, La. Rev. Stat. Ann. §§ 40:966-40:970 (West 1994), which sections prohibit producing, manufacturing, distributing, possessing or possessing with intent to produce, manufacture or distribute controlled dangerous substances according to the various drug schedules. La. Rev. Stat. Ann. § 40:971(B)(1)(b) (West 1994) prohibits knowingly or intentionally obtaining possession of a controlled dangerous substance by "misrepresentation, fraud, forgery, deception, or subterfuge." The penalty for this violation is imprisonment, with or without hard labor, for not more than five years and a fine of up to $5,000. La. Rev. Stat. Ann. § 40:971(B)(2) (West 1994). La. Rev. Stat. Ann. § 40:978 (West 1994) prohibits dispensing or administering any controlled dangerous substance without a written prescription. Danielle is also violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crimes under these state and federal drug control codes will depend on the type of drugs she takes from the customers' prescriptions and how she uses them.

8. **Is Renee breaking state law even though she is not selling the drugs herself?**

Even though she is not selling the drugs directly, Renee is breaking several state and federal laws. Depending on the type of drug she is selling, Renee is violating some section of Louisiana's Uniform Controlled Dangerous Substances Law, La. Rev. Stat. Ann. §§ 40:966-40:970 (West 1994), which sections prohibit producing, manufacturing, distributing, possessing or possessing with intent to produce, manufacture or distribute controlled dangerous substances according to the various drug schedules. She is also violating similar federal statutes such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision. The penalties for violation of these state and federal drug control codes depends on the type of drugs involved, but for Schedule I narcotic drugs, such as heroin, range as high as life imprisonment at hard labor without benefit of probation or suspension of sentence and a fine of up to $50,000. La. Rev. Stat. Ann. § 40:966(B)(1) (West 1994).

If Renee is participating in a drug conspiracy, she faces other serious charges. Conspiracy to violate any section of the Louisiana Uniform Controlled Dangerous Substances Law

is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy. La. Rev. Stat. Ann. § 40:979(A) (West 1994). She may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

As a child under 10 years of age, Renee's daughter is not subject to criminal charges. La. Rev. Stat. Ann. § 14:13 (West 1994). Because the child is acting at her direction, Renee is considered responsible for the child's activities. By involving her young daughter in her drug trafficking activities and selling to other children, Renee is compounding the seriousness of her crimes and is even risking losing custody of all her children. La. Rev. Stat. Ann. § 40:981 (West 1994) imposes heavier sentences upon violators who distribute controlled dangerous substances to persons under the age of 18, up to life imprisonment at hard labor for violations involving persons over age 25 dealing Schedule I or II substances. By dealing at the school, Renee is violating La. Rev. Stat. Ann. § 40:981.3 (West 1994), which mandates heavier sentences and maximum fines for violations of §§ 40:966-40:970 which occur while on or within 1,000 feet of school property. Her actions may be considered cruelty to juveniles, as she is placing her daughter at risk of serious physical harm; this violation carries a penalty of a $1,000 fine, up to 10 years imprisonment with or without hard labor, or both. La. Rev. Stat. Ann. § 14:93(A), (D) (West 1994). also constitute encouraging or contributing to the delinquency of a minor. La. Rev. Stat. Ann. § 14:92.1 (West 1994). Under the Louisiana Children's Code article 793 (West 1994), she may be adjudicated in need of supervision if her children are found to be in need of care. She may even lose custody of the children; if a child is found in need of care, that child may be taken into protective custody with or without a court order. La. Chil. Code art. 25(3), art. 1433(A) (West 1994).

Renee could also receive heavier sentencing under federal statutes. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

If Jim was aware that he carried the AIDS virus, he violated La. Rev. Stat. Ann. § 14:43.5(B) (West 1994), which prohibits intentionally exposing another person "to any acquired immunodeficiency syndrome (AIDS) virus through any means or contact without the knowing and lawful consent of the victim." Such behavior could also constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under

certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

Both Jim and Andre are breaking the law by using a syringe to shoot drugs. La. Rev. Stat. Ann. § 40:1033(A) and (C) (West 1994) prohibit giving or distributing drug paraphernalia and using or possessing with intent to use any drug paraphernalia to ". . . inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. . . ." La. Rev. Stat. Ann. § 40:1033.1(A) (West 1994) further prohibits giving, selling or distributing drug paraphernalia to any unmarried person under the age of 17. The penalty for first violation of these sections is a fine of up to $500, six months' imprisonment, or both. La. Rev. Stat. Ann. § 40:1035 (West 1994).

Intoxication at the time of an offense does not provide any defense to criminal charges. La. Rev. Stat. Ann. § 14:15 (West 1994).

Andre may face charges of second-degree murder for helping Jim use the drugs that killed him. Under La. Rev. Stat. Ann. § 14:30.1(A)(3) (West 1994), second-degree murder includes "the killing of a human being [w]hen the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I or II of the Uniform Controlled Dangerous Substances Law which is the direct cause of the death of the recipient who has ingested or consumed the controlled dangerous substance."

10. **Has the bartender or the owner at Bulldog's Bar and Grill violated any law?**

Under La. Rev. Stat. Ann. §§ 26:90 and 26:286 (West 1994), no person holding a retail dealer's permit and no servant, agent, or employee of the permittee shall sell beverages of high or low alcoholic content to any intoxicated person. However, because Louisiana's legislature finds that it is the consumption rather than the sale of intoxicating beverages which is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person, statute provides that bar owners and their employees cannot be held liable for damages caused by intoxicated persons served alcohol on their premises. Social hosts likewise cannot be held liable for the acts of intoxicated guests. La. Rev. Stat. Ann. §§ 9:2800.1(A), (B), (C) (West 1994).

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES

UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990

A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2

[3] Massachusetts calls their schedules classes, but they are the same thing.

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	■ minimum of 15 years imprisonment (up to 30 years), and/or ■ fine of $200,000 to $600,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	■ life imprisonment without probation, and possibility of ■up to $15,000 fine
First Offense: Codeine - Possession - 200 mg	■ imprisonment for 5 to 30 years, and possibility of ■ up to $15,000 fine
Second Offense: Marijuana - Possession - 50 kg	■ imprisonment for 10 to 30 years, and ■ fine of $50,000 to $100,000
Third Offense - Methamphetamine - Possession - 100 g	■ imprisonment for 10 to 60 years, and ■ fine of $100,000 to $300,000

Cite: LA Rev. Stat. Ann. § 40 (West 1992).

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under 14 § 98 it is unlawful for a person to drive while under the influence of alcohol or have a blood alcohol concentration of 0.10 or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

Louisiana does not distinguish between DUI and DWI as to penalties.

4. **What are the penalties for being convicted of DWI? DUI?**

CONVICTION	PUNISHMENT
first	• fine of $125 to $500, and • jail for 10 days to 6 months (or probation if individual serves at least 2 days in jail and participate in a court approved substance abuse program and a court approved driver improvement program), and • license suspended for 90 days
second	• fine of $300 to $1000, and • jail for 30 days to 6 months (or probation after serving a minimum of 15 days in jail and participating in a court approved substance abuse program and a court approved driver improvement program), and • license suspended for 12 months
third	• fine of not more than $2000, and • jail for 1 to 5 years, and • license suspended for 24 months if third conviction within 5 years of others
fourth	• jail for 10 to 30 years, and • license suspended for 24 months if fourth conviction within 5 years of others

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under 32 § 661 any person who operates a car on the highways of Louisiana gives his/her consent to have a breath test to determine blood alcohol concentration. Under 32 § 666 if a person refuses to submit to

a breath test his/her license will be revoked. If s/he does not have a license the state shall deny issuance of one for 6 months after the date of the violation.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

For a person to legally intoxicated his/her BAC must be 0.10.

7. **The legal limit for blood alcohol content is lower for persons under the legal drinking age of 21. True or False?**

False. Louisiana law does not make a distinction between those over 21 and those over under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

There is no open container law in Louisiana. Under § 91.5 it is unlawful for any person 18 years or older to be in possession of alcohol in public.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.